

The Honorable Judge Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

v.

KIMBERLY GABEL,
Defendant.

NO. CR23-054-RSM

GOVERNMENT'S SENTENCING
MEMORANDUM

Defendant Kimberly Gabel is before the Court for sentencing for her participation in a scheme to produce and distribute fake COVID-19 vaccination record cards. In April 2023, Gabel pleaded guilty to a one-count information charging conspiracy to defraud the United States, in violation of 18 U.S.C. § 371. For the reasons stated below, the United States respectfully requests the Court to sentence Gabel to a two-year term of probation and 100 hours of community service.

I. OFFENSE CONDUCT

A. Background on the Federal COVID-19 Vaccination Program

In early 2020, the COVID-19 virus spread rapidly across our country. To respond to this national public emergency, in May 2020, the federal government initiated Operation Warp Speed to make safe and effective COVID-19 vaccines available as quickly as possible to every American adult. Seven months later, in December 2020, the first COVID-19 vaccine was administered and, by September 2021, the federal government had acquired over 673 million doses of the vaccines, which was sufficient to fully vaccinate every American adult free of charge.

To ensure the rapid and safe dissemination of the vaccines, the Centers for Disease Control and Prevention (CDC) controlled the distribution of COVID-19 vaccines and COVID-19 vaccination record cards, distributing them only to medical providers that entered into provider agreements with the CDC. PSR at ¶ 8. Pursuant to these agreements, the administrators of COVID-19 vaccines were required to provide a completed COVID-19 vaccination record card to every COVID-19 vaccine recipient.

COVID-19 vaccination record cards were designed and printed according to CDC specifications and contained both the United States Department of Health and Human Services' (HHS) and CDC's official agency logos. COVID-19 vaccination record cards recorded the name and date of birth of the individual receiving the vaccine, the name of the manufacturer of the vaccines administered, the location where each dose was administered, and the lot number of the vaccine dose. A lot number is a unique number given by vaccine manufacturers to a specific batch of a vaccine. The CDC mandated that valid proof of a COVID-19 vaccination—specifically, the COVID-19 vaccination record card—could only be provided to vaccine recipients by providers authorized by the CDC to administer COVID-19 vaccines. Through this requirement, the CDC sought to ensure that the COVID-19 vaccination record cards distributed to vaccine recipients contained

1 accurate and complete information.

2 During the COVID-19 public health emergency, proof of vaccination was required
3 by certain employers, including the federal government and numerous states, and by
4 certain hospitals, airlines, courts, universities, large venues, such as arenas, and by some
5 restaurants, bars, and gyms, among many other businesses and locales. In many
6 instances, the entities requiring proof of vaccination for employment or entry insisted that
7 individuals provide a CDC COVID-19 vaccination record card in their name (or a
8 photograph of the same), along with a government-issued identification document, to
9 prove that they had been fully vaccinated.

10 **B. Gabel Printed Hundreds of Fake CDC Vaccination Record Cards**

11 In April 2021, Gabel's co-conspirator Robert Van Camp obtained an electronic
12 image of a blank COVID-19 vaccination record card that appeared visually identical to
13 the official COVID-19 vaccination record cards designed and distributed by the CDC.
14 *Id.* at ¶ 12. Van Camp provided the electronic image to Gabel, who owns a UPS Store in
15 Parker, Colorado. *Id.* at ¶¶ 12, 55. At the instruction of Van Camp, Gabel printed
16 hundreds of fake COVID-19 vaccination cards at her UPS store. *Id.* at ¶ 12. Gabel
17 printed the fake vaccination cards to make them appear visually indistinguishable from
18 legitimate CDC COVID-19 vaccination record cards, including by printing them in the
19 same size and by using similar paper and ink, as the official cards, and by printing them
20 with HHS' and the CDC's official government logos. *Id.* Gabel printed the fake cards
21 even though she is not a medical provider and was not authorized to print COVID-19
22 vaccination record cards by the CDC. *Id.* at ¶ 10.

23 Between April 2021 through at least January 2022, Gabel printed hundreds of fake
24 vaccination record cards at Van Camp's request. Gabel sold the fake cards to Van Camp
25 at her UPS store's standard rate for ink and paper costs, which amounted to far below
26 \$6,500 in total. *Id.* at ¶¶ 12, 13. Gabel stopped printing fake vaccination record cards for
27

1 Van Camp in approximately February or March 2022.

2 **C. Van Camp Sold and Distributed the Fake Vaccination Record Cards Printed**
3 **by Gabel to More Than 2,000 Individuals**

4 After obtaining fake blank vaccination record cards from Gabel, Van Camp
5 completely filled out the fake cards before distributing them to buyers, including writing
6 real names and dates of birth on the cards, along with inserting false information
7 concerning vaccination dates, vaccination providers, vaccination sites, vaccination
8 manufacturers, and vaccination lot numbers. Van Camp sold and distributed his fully-
9 filled out, fake vaccination cards to more than 2,000 individuals in more than a dozen
10 states. Van Camp charged up to \$150 per card. While Gabel knew that Van Camp was
11 selling and distributing the fake cards she printed, Gabel did not receive any
12 compensation from Van Camp from his downstream sales of the cards. *See id.* at ¶ 13.

13 **II. PROCEDURAL HISTORY**

14 On April 13, 2023, Gabel was charged by information with conspiracy to defraud
15 the United States, in violation of Title 18, United States Code, Section 371. Dkt. 1. On
16 April 28, 2023, Gabel pleaded guilty to the information pursuant to a plea agreement.
17 Dkt. 7, 10.

18 **III. SENTENCING GUIDELINES**

19 The United States agrees with the Probation Office on the sentencing guidelines
20 calculations. As set forth in the Presentence Report, Gabel has a total offense level of 4
21 and criminal history category of I, which results in a sentencing guideline range of 0 to 6
22 months. PSR at ¶¶ 27, 31, 67.

23 **IV. SENTENCING RECOMMENDATION**

24 The United States agrees with the Probation Office's recommendation that the
25 Court sentence Gabel to a two-year term of probation and impose the special conditions
26 recommended by Probation, including 100 hours of community service. The
27

1 Government believes that the recommended sentence is appropriate under the factors set
2 forth in 18 U.S.C. §3553(a) and the information contained in the Government's filing
3 dated August 4, 2023 (Dkt. 17), and because Gabel's conduct differs markedly from that
4 of Van Camp.

5 **A. The Nature and Circumstances of the Offense and the History and**
6 **Characteristics of the Defendant**

7 Gabel committed a serious offense. She printed fake vaccination record cards for
8 Van Camp, who she knew was selling the fake cards to hundreds of individuals. The
9 owner of a print shop should know that forgery of a federal document is prohibited.
10 Additionally, Gabel knew that Van Camp's buyers purchased the fake cards to
11 circumvent COVID-19 vaccination requirements imposed during a national public health
12 emergency. Her actions, therefore, placed others at risk and undermined other
13 individual's ability to make informed decisions about who they were exposed to during
14 the pandemic.

15 Although Gabel's offense is serious, there are some mitigating factors. For
16 instance, Gabel did not profit from the scheme. She sold blank fake cards to Van Camp
17 at her normal rate for printing and paper. While Van Camp subsequently sold the fake
18 cards to buyers for up to approximately \$150 each and made at least \$100,000 from the
19 scheme, Gabel did not share in—or even ask for—a cut of those proceeds. It is also
20 notable that Gabel stopped printing fake vaccination record cards for Van Camp on her
21 own accord before either she or Van Camp were approached by law enforcement. While
22 that does not excuse her conduct, Gabel at least recognized on her own that what she was
23 doing was wrong and that she needed to stop.

24 Soon after Gabel was approached by law enforcement, she not only fully admitted
25 to the offense but also expressed sincere remorse for her conduct. She is clearly ashamed
26 of the role she played in the scheme and appears to have genuinely reflected upon her
27

1 actions and the consequences of them. While Gabel does have a criminal history, until
2 the instant offense, she has lived lawfully for two decades and appears to have
3 established a productive life and business, even while facing some personal challenges.

4 **B. The Need for the Sentence to Reflect the Seriousness of the Offense, to**
5 **Provide Just Punishment, and to Deter Similar Conduct**

6 Considering the mitigating factors, the information contained in the Government's
7 filing dated August 4, 2023 (Dkt. 17), Gabel's sincere regret, and the qualitative
8 difference between Gabel and Van Camp's conduct (discussed below), a probationary
9 sentence is sufficient to accomplish the goals of sentencing in this case. Through a two-
10 year probationary term and community service, Gabel will be reminded of the role she
11 played in the scheme and will be incentivized to abide by the law. A probationary
12 sentence is also sufficient to make clear to Gabel that she must comply with the law even
13 if she disagrees with it. The recommended sentence is likewise sufficient to deter Gabel
14 from engaging in future criminal conduct because she understands that more severe
15 sanctions will be imposed if that occurs.

16 **C. The Need to Avoid Unwarranted Sentence Disparities Among Defendants**

17 Gabel is clearly in a qualitatively different position from Van Camp, the organizer
18 of the scheme. While Gabel did print the fake vaccination cards, unlike Van Camp, she
19 was not involved in the other aspects of the scheme, including filling out the fake cards
20 with false vaccination information, communicating with buyers and distributors about the
21 cards, and selling the cards to hundreds of individuals in more than a dozen states. In
22 addition, as noted above, Gabel did not share in the considerable proceeds generated by
23 the scheme. Furthermore, Gabel did not make violent comments about fighting back
24 against the federal government's vaccination efforts. Accordingly, the Government
25 believes that the sentence it is recommending for Gabel will avoid unwarranted
26 disparities because it appropriately accounts for her role and conduct in the scheme
27

1 versus that of her co-conspirator.

2 **V. CONCLUSION**

3 For the foregoing reasons, the Court should sentence Gabel to a two-year term of
4 probation, with a special condition requiring that she perform 100 hours of community
5 service.

6 Dated: August 15, 2023

7
8 Respectfully submitted,

9
10 GLENN S. LEON
11 Chief, Fraud Section
12 Criminal Division
13 U.S. Department of Justice

14 s/ Christopher Wenger
15 CHRISTOPHER WENGER
16 S. BABU KAZA
17 Trial Attorneys
18 Fraud Section, Criminal Division
19 U.S. Department of Justice
20 1400 New York Ave, NW
21 Washington, DC 20005
22 Phone: 202-445-9670
23 Fax: 202-514-3708
24 Email: christopher.wenger@usdoj.gov
25
26
27